

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

MICHELLE SHERRILL,
Plaintiff,

V.

**Carolyn W. Colvin,
Acting Commissioner of
Social Security,
Defendant.**

Civil Action No.: 1:13-CV-276
Judge Barrett
Magistrate Judge Litkovitz

MOTION FOR A STAY OF THE AGENCY'S RESPONSE IN LIGHT OF LAPSE OF APPROPRIATIONS

The United States of America hereby moves for a stay of the Agency's Response to Plaintiff's Statement of Errors or appropriate pleading in the above-captioned case.

1) At the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for most Executive agencies, including funding for the Office of the General Counsel of the Social Security Administration. The Department does not know when funding will be restored by Congress.

2) Absent an appropriation, Department of Justice attorneys and employees of the Office of the General Counsel of the Social Security Administration are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3) Undersigned counsel for the Department of Justice therefore requests a stay the Agency's Response to Plaintiff's Statement of Errors or appropriate pleading until Congress has restored appropriations to the Department.

4) If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

5) The undersigned counsel has contacted opposing counsel, who has authorized counsel for the Government to state that Plaintiff has no objection to this motion.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of the Agency's Response to Plaintiff's Statement of Errors or appropriate pleading in this case until Department of Justice and Social Security Administration attorneys are permitted to resume their usual civil litigation functions.

Dated: October 1, 2013

Respectfully submitted,

CARTER M. STEWART
United States Attorney
Southern District of Ohio

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Motion for a Stay of the Agency's Response to Plaintiff's Statement of Errors in Light of Lapse of Appropriations with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record.

Dated: October 1, 2013.

s/ Kyle D. Kickhaefer
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